

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1159

House Bill No. 1029*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 37-1-103, is amended by deleting subdivision (a)(1) and substituting:

(1) Proceedings in which a child:

(A) Is alleged to be unruly, dependent and neglected, or to have committed a juvenile traffic offense as defined in § 37-1-146; and

(B) Is alleged to be delinquent, unless the child must be charged in criminal court pursuant to § 37-1-134;

SECTION 2. Tennessee Code Annotated, Section 37-1-104, is amended by deleting subsection (c) and substituting:

(c)

(1) The juvenile, circuit, and chancery courts have concurrent jurisdiction to terminate parental or guardian rights pursuant to the provisions of title 36, chapter 1, part 1; and

(2) The juvenile, criminal, and circuit courts have concurrent jurisdiction in proceedings in which a child is alleged to be delinquent and the child must be charged in criminal court pursuant to § 37-1-134.

SECTION 3. Tennessee Code Annotated, Section 37-1-134, is amended by deleting the section and substituting:

(a)

(1)



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(A) If a child is alleged to have committed an offense or engaged in conduct that is designated a crime or public offense under the laws, including local ordinances, of this state, and the child meets one (1) or more of the criteria listed in subdivision (a)(1)(B), then a petition alleging delinquency must be filed in the appropriate criminal court of competent jurisdiction.

(B) Subdivision (a)(1)(A) applies if the child was:

(i) Less than fourteen (14) years of age at the time of the alleged conduct and charged with first degree murder or second degree murder or attempted first or second degree murder;

(ii) Fourteen (14) years of age or more but less than seventeen (17) years of age at the time of the alleged conduct and charged with the offense of first degree murder, second degree murder, rape, aggravated rape, rape of a child, aggravated rape of a child, aggravated sexual battery when the victim is less than thirteen (13) years of age, aggravated robbery, especially aggravated robbery, aggravated burglary, especially aggravated burglary, kidnapping, aggravated kidnapping, especially aggravated kidnapping, commission of an act of terrorism, carjacking, or an attempt to commit any such offense;

(iii) Sixteen (16) years of age or more at the time of the alleged conduct and charged with:

(a) The offense of robbery or attempt to commit robbery; or

(b) Any offense if a deadly weapon was used during the commission of the offense; or

(iv) Seventeen (17) years of age or more at the time of the alleged conduct.

(2)

(A) If a petition has been filed with the criminal court pursuant to subdivision (a)(1)(A), then the criminal court shall, before a hearing on the merits of the petition, conduct a hearing to determine whether the child shall be tried as an adult in criminal court or if the petition should be transferred to the juvenile court for delinquency proceedings on the merits.

(B) A hearing pursuant to subdivision (a)(2)(A) must be held in conformity with §§ 37-1-124, 37-1-126, and 37-1-127.

(C) The court shall provide reasonable notice in writing of the time, place, and purpose of the hearing to the child and the child's parents, guardian, or other custodian at least fourteen (14) days prior to the hearing.

(b)

(1) Except as provided in subdivision (b)(3), the child shall be tried as an adult in criminal court if the criminal court finds probable cause to believe that:

(A) The child committed the delinquent act as alleged;

(B) The child is not committable to an institution for the developmentally disabled or mentally ill; and

(C) The interest of the community requires that the child be put under legal restraint or discipline.

(2) In making the determination required by this section, the criminal court shall consider, among other matters:

(A) Whether the offense was against a person or property, with greater weight in favor of a determination that the child shall be tried as an adult in criminal court if the offense was against a person;

(B) Whether the offense was committed in an aggressive and premeditated manner;

(C) Whether the child's conduct would be a criminal gang offense, as defined in § 40-35-121, if committed by an adult; and

(D) Whether the child's history demonstrates the child is, or has been, a victim of human trafficking.

(3) The district attorney general shall not seek, nor shall any child tried in an adult criminal court receive, a mandatory sentence of death or imprisonment for life without the possibility of parole.

(c)

(1) If the criminal court determines that the child shall be tried as an adult in criminal court, then the court shall enter a written order detailing the court's findings of fact and conclusions of law. Following entry of the order, the child is subject to indictment, presentation, or information for the offense charged.

(2) If the criminal court determines that the child shall not be tried as an adult in criminal court, then the court shall enter a written order detailing the court's findings of fact and conclusions of law, and the petition shall be transferred to the juvenile court for delinquency proceedings on the merits pursuant to § 37-1-131.

(d)

(1) If the criminal court determines that the child shall be tried as an adult in criminal court, then the jurisdiction of the juvenile court with respect to any and all delinquent acts with which the child may then or thereafter be charged is terminated, and the child shall thereafter be dealt with as an adult as to all

pending and subsequent criminal charges except in the following circumstances, in which the juvenile court retains concurrent jurisdiction:

(A) The child is acquitted in criminal court on the charge or charges; or

(B) The charge or charges were dismissed by the criminal court.

(2) If a child is in the legal custody of the department at the time of the hearing, then custody terminates at the hearing, except that if the child is already committed to the department, the court may determine if it is in the best interest of the child to remain in the legal custody of the department until a conviction occurs. Legal custody by the department terminates upon a conviction in adult criminal court. If the child is acquitted of the charges or if no conviction occurs and the charge is dismissed, then the presiding judge shall notify the appropriate juvenile court of the dismissal or acquittal so that the juvenile court may, at its discretion, set a hearing to ascertain the status of the child as to the department's custody.

(e) If a person eighteen (18) years of age or older is charged with an offense that was alleged to have been committed prior to the person's eighteenth birthday, then the petition must be brought in the adult criminal court having jurisdiction at the time of the offense. The adult criminal court shall determine, pursuant to this section, whether the case should be adjudicated in the juvenile court under its continuing jurisdiction authority pursuant to § 37-1-102(b)(5)(B) and (C) or whether the matter should be tried in the adult criminal court.

(f) A child, either before or after reaching eighteen (18) years of age, shall not be prosecuted for an offense previously committed unless a hearing has been held pursuant to subsection (a).

(g)

(1) Statements made by the child at a hearing held pursuant to subsection (a) are not admissible against the child, over objection, in the criminal proceedings following the court's decision that the child shall be tried as an adult in criminal court.

(2) A hearing held pursuant to subsection (a) shall be recorded using the procedure provided in title 40, chapter 14, part 3.

(h) If the criminal court determines that the child shall be tried as an adult in criminal court, then the judge who conducted the hearing pursuant to subsection (a) shall not, over objection of an interested party, preside at the criminal trial.

(i) After a child has been sentenced to an adult institution, the department of correction may file a petition requesting the committing court to allow the department to transfer the defendant to an institution for juvenile delinquents administered by the department of children's services. Upon the approval of the committing court, the defendant may be transferred by the department of correction to a child-caring institution to be held until the defendant's eighteenth birthday. At the defendant's eighteenth birthday, the defendant may be transferred to an adult institution if there is time remaining on the defendant's term. If the term expires prior to the defendant's eighteenth birthday, then the defendant must be released. A child sentenced by a committing court pursuant to this section shall, for the purposes of parole, be treated as if the child were an adult. The provisions of this section relative to housing juveniles who have obtained the age of eighteen (18) are not affected by subsections (j), (k), and (l).

(j) When a child being tried as an adult in criminal court pursuant to subsection (a) is detained, the adult criminal court may, in its discretion, order confinement in a local juvenile detention facility, or a juvenile detention facility with which the juvenile court contracts, or an adult detention facility separate and removed from adult detainees. If the adult criminal court orders detention in an adult detention facility separate and removed from adult detainees, then during the period while the child is detained

separately from adult detainees, the child shall otherwise abide by the same regulations and policies governing conditions of imprisonment that apply to adult detainees who are charged with similar offenses. Similar regulations and policies governing educational opportunities for adults shall be implemented for a child so detained, but such regulations and policies shall in no way affect or alter the manner in which a local education agency is required to provide educational services to a child under the federal Individuals with Disabilities Education Act, compiled in 20 U.S.C. § 1471 et seq.

(k) A child who was less than sixteen (16) years of age at the time of the offense and who is subsequently convicted in adult criminal court and committed, must be housed in a juvenile correctional facility until such person reaches sixteen (16) years of age, at which time the child may be transferred upon the order of the committing court to an adult facility. A child committed to an adult facility under this section must be housed separate and removed from adult inmates. In exercising the commissioner's discretion under § 41-1-403 to determine the institutional location of a person committed to the custody of the department, the commissioner of correction shall take into consideration the proximity of the institution to the child's home. However, during any period while the child is confined separately from adult inmates within the regional facility, the child shall otherwise abide by the same regulations and policies governing conditions of imprisonment that apply to adult inmates who are confined for similar offenses. Similar regulations and policies governing educational opportunities for adults must be implemented for a child so detained, but such regulations and policies do not affect or alter the manner in which a local education agency is required to provide educational services to a child under the federal Individuals with Disabilities Education Act, compiled in 20 U.S.C. § 1471 et seq.

(l) A child who was sixteen (16) years of age or older at the time of the offense and is subsequently convicted in adult criminal court and committed shall be housed in a juvenile correctional facility unless the committing court orders commitment to an adult

facility. A child committed to an adult facility under this section must be housed separate and removed from adult inmates. In exercising the commissioner's discretion under § 41-1-403 to determine the institutional location of a person committed to the custody of the department, the commissioner of correction shall take into consideration the proximity of the institution to the child's home. However, during any period while the child is confined separately from adult inmates within the regional facility, the child shall otherwise abide by the same regulations and policies governing conditions of imprisonment that apply to adult inmates who are confined for similar offenses. Similar regulations and policies governing educational opportunities for adults must be implemented for a child so detained, but the regulations and policies do not affect or alter the manner in which a local education agency is required to provide educational services to a child under the federal Individuals with Disabilities Education Act, compiled in 20 U.S.C. § 1471 et seq.

SECTION 4. Tennessee Code Annotated, Section 37-1-102(b)(5)(B)(iii), is amended by deleting the language "with the court having the option of retaining jurisdiction for adjudication and disposition or transferring the person to criminal court under § 37-1-134".

SECTION 5. Tennessee Code Annotated, Section 37-1-102, is amended by deleting subdivision (b)(5)(D).

SECTION 6. Tennessee Code Annotated, Section 37-1-126(c)(4), is amended by deleting "a child who has been transferred or is awaiting a transfer hearing pursuant to § 37-1-134 or".

SECTION 7. Tennessee Code Annotated, Section 37-1-131, is amended by deleting subdivision (d)(2)(A) and subdivision (e)(2)(A).

SECTION 8. Tennessee Code Annotated, Section 37-1-135, is amended by deleting "to transfer a child under" and substituting "held pursuant to".

SECTION 9. Tennessee Code Annotated, Section 37-1-137(d)(1)(B), is amended by deleting the last sentence and substituting:

This section does not prevent the child from being tried as an adult in criminal court pursuant to § 37-1-134.

SECTION 10. Tennessee Code Annotated, Section 37-1-137(d)(2), is amended by deleting the last sentence and substituting:

This section does not prevent the child from being tried as an adult in criminal court pursuant to § 37-1-134.

SECTION 11. Tennessee Code Annotated, Section 37-1-153, is amended by deleting subdivision (f)(1)(A)(iii) and substituting:

(iii) Has never been convicted of a criminal offense as an adult, has never been convicted of a criminal offense as a juvenile tried in adult criminal court pursuant to § 37-1-134, and has never been convicted of a sexual offense, as defined in § 40-39-202, whether in juvenile court, in adult criminal court pursuant to § 37-1-134, or as an adult;

SECTION 12. Tennessee Code Annotated, Section 37-1-154(a), is amended by deleting "Unless a charge of delinquency is transferred for criminal prosecution under" and substituting "Unless a child is tried as an adult in criminal court pursuant to".

SECTION 13. Tennessee Code Annotated, Section 37-1-159(a), is amended by deleting ", except a proceeding pursuant to § 37-1-134,".

SECTION 14. Tennessee Code Annotated, Section 37-1-159, is amended by deleting subsections (d) and (e).

SECTION 15. Tennessee Code Annotated, Section 37-1-159(f), is amended by deleting "pursuant to subsection (e)" and substituting "pursuant to § 37-1-134".

SECTION 16. Tennessee Code Annotated, Section 37-1-170(f), is amended by deleting "in a case that has been transferred to the criminal court pursuant to the provisions of § 37-1-134" and substituting "in which a child is tried as an adult in criminal court pursuant to § 37-1-134".

SECTION 17. Tennessee Code Annotated, Section 37-5-103(4)(A)(ii)(c), is amended by deleting the language "with the court having the option of retaining jurisdiction for adjudication and disposition or transferring the person to criminal court under § 37-1-134".

SECTION 18. Tennessee Code Annotated, Section 37-5-103, is amended by deleting subdivision (4)(C).

SECTION 19. Tennessee Code Annotated, Section 40-35-106(b)(3)(A), is amended by deleting "a transfer of the juvenile to criminal court" and substituting "the juvenile being tried as an adult in criminal court".

SECTION 20. Tennessee Code Annotated, Section 40-35-106(b)(3)(B), is amended by deleting "juvenile was transferred to criminal court" and substituting "juvenile was tried as an adult in criminal court".

SECTION 21. Tennessee Code Annotated, Section 40-35-107(b)(3)(A), is amended by deleting "a transfer of the juvenile to criminal court" and substituting "the juvenile being tried as an adult in criminal court".

SECTION 22. Tennessee Code Annotated, Section 40-35-107(b)(3)(B), is amended by deleting "juvenile was transferred to criminal court" and substituting "juvenile was tried as an adult in criminal court".

SECTION 23. Tennessee Code Annotated, Section 40-35-108(b)(3)(A), is amended by deleting "a transfer of the juvenile to criminal court" and substituting "the juvenile being tried as an adult in criminal court".

SECTION 24. Tennessee Code Annotated, Section 40-35-108(b)(3)(B), is amended by deleting "juvenile was transferred to criminal court" and substituting "juvenile was tried as an adult in criminal court".

SECTION 25. Tennessee Code Annotated, Section 40-35-120(e)(3), is amended by deleting "a transfer of the juvenile to criminal court" and substituting "the juvenile being tried as an adult in criminal court".

SECTION 26. This act takes effect July 1, 2023, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1193

House Bill No. 1030*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 40-35-120(a), is amended by deleting the subsection and substituting:

(a) A "repeat violent offender" is a defendant who:

(1) Is convicted in this state on or after July 1, 1994, and before July 1, 2023, of any offense classified in subdivision (b)(1) as a violent offense; and

(2) Has at least two (2) prior convictions for offenses classified in subdivision (b)(1) or (b)(2) as a violent offense; or

(3) Is convicted in this state on or after July 1, 1994, and before July 1, 2023, of any offense classified in subdivision (c)(1) as a violent offense; and

(4) Has at least one (1) conviction for an offense classified in subdivision (c)(1) or (c)(2) as a violent offense; or

(5) Is convicted in this state on or after July 1, 1995, and before July 1, 2023, of any offense classified in subdivision (d)(1) as a violent offense; and

(6) Has at least one (1) prior conviction for an offense classified in subdivision (d)(1) or (d)(2) as a violent offense with the exception of the prior offense of robbery by use of a deadly weapon as listed in § 40-35-118(a).

SECTION 2. Tennessee Code Annotated, Title 40, Chapter 35, Part 1, is amended by adding the following new section:

(a) As used in this section:

(1) "Prior conviction":



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(A) Means the defendant was convicted of a violent offense that occurred before the violent offense for which the defendant is to be sentenced; provided, however, that a defendant who was convicted of multiple violent offenses based on conduct that occurred contemporaneously, occurred at the same location, and represented a single continuous criminal episode with a single criminal intent shall only be considered to have a prior conviction for the offense that would result in the highest point allocation pursuant to this section;

(B) Does not include a finding or adjudication that the defendant committed an act as a juvenile that is designated as a violent offense if committed by an adult, unless the defendant was tried as an adult in criminal court pursuant to § 37-1-134, or similar statutes of other states or jurisdictions, and was convicted of the violent offense in a criminal court and sentenced as an adult; and

(C) Includes convictions under the laws of any other state, government, or country that, if committed in this state, would have constituted a violent offense. If a felony from another jurisdiction is not a named violent offense and if the elements of the felony are the same as a violent offense, the offense shall be considered a prior conviction;

(2) "Repeat violent offender" means a defendant who is convicted of a violent offense, which occurred on or after July 1, 2023, and the combination of the strikes allocated pursuant to this section for the violent offense and the defendant's prior convictions equals three (3) or more strikes; and

(3) "Violent offense" means:

(A) The following offenses, each of which results in the offender receiving one and one-half (1.5) strikes:

- (i) First degree murder, as defined in § 39-13-202, with a sentence of life imprisonment, or any attempt, solicitation, conspiracy, or facilitation to commit first degree murder;
- (ii) Second degree murder, as defined in § 39-13-210;
- (iii) Especially aggravated kidnapping, as defined in § 39-13-305;
- (iv) Aggravated kidnapping, as defined in § 39-13-304;
- (v) Especially aggravated robbery, as defined in § 39-13-403;
- (vi) Aggravated rape, as defined in § 39-13-502;
- (vii) Rape, as defined in § 39-13-503;
- (viii) Aggravated sexual battery, as defined in § 39-13-504;
- (ix) Rape of a child, as defined in § 39-13-522;
- (x) Aggravated rape of a child, as defined in § 39-13-531;
- (xi) Especially aggravated rape, as defined in § 39-13-534;
- (xii) Especially aggravated rape of a child, as defined in § 39-13-535;
- (xiii) Especially aggravated burglary, as defined in § 39-13-1004;
- (xiv) Aggravated arson, as defined in § 39-14-302;
- (xv) Aggravated child abuse, as defined in § 39-15-402;
- (xvi) Aggravated sexual exploitation of a minor, as defined in § 39-17-1004;
- (xvii) Especially aggravated sexual exploitation of a minor, as defined in § 39-17-1005; and

(xviii) Any offense that was repealed on November 1, 1989, and is listed in § 40-35-118(a) as a Class A or B felony against a person, with the exception of the offense of robbery by use of a deadly weapon;

(B) The following offenses, each of which results in the offender receiving one (1) strike:

(i) Female genital mutilation, as defined in § 39-13-110;

(ii) Domestic assault, as defined in § 39-13-111, when the offense is a felony offense;

(iii) Vehicular homicide, as defined in § 39-13-213(a)(2);

(iv) Aggravated vehicular homicide, as defined in § 39-13-218;

(v) Trafficking for a commercial sex act, as defined in § 39-13-309;

(vi) Advertising commercial sexual abuse of a minor, as defined in § 39-13-315;

(vii) Aggravated human trafficking, as defined in § 39-13-316;

(viii) Aggravated robbery, as defined in § 39-13-402;

(ix) Carjacking, as defined in § 39-13-404;

(x) Sexual battery, as defined in § 39-13-505;

(xi) Aggravated statutory rape, as defined in § 39-13-506(c);

(xii) Indecent exposure, as defined in § 39-13-511, when the offense is a felony offense;

(xiii) Patronizing prostitution, as defined in § 39-13-514(b)(3);

- (xiv) Promoting prostitution, as defined in § 39-13-515;
- (xv) Public indecency, as defined in § 39-13-517(d)(3);
- (xvi) Continuous sexual abuse of a child, as defined in § 39-13-518;
- (xvii) Sexual battery by an authority figure, as defined in § 39-13-527;
- (xviii) Solicitation of a minor, as defined in § 39-13-528, when the offense is a felony offense;
- (xix) Soliciting sexual exploitation of a minor or exploitation of a minor by electronic means, as defined in § 39-13-529;
- (xx) Statutory rape by an authority figure, as defined in § 39-13-532;
- (xxi) Promoting travel for prostitution, as defined in § 39-13-533;
- (xxii) Unlawful photographing in violation of privacy, as defined in § 39-13-605, when the victim is under thirteen (13) years of age;
- (xxiii) Observation without consent, as defined in § 39-13-607(d)(2);
- (xxiv) Incest, as defined in § 39-15-302;
- (xxv) Child abuse or child neglect or endangerment, as defined in § 39-15-401;
- (xxvi) Aggravated child endangerment or neglect, as defined in § 39-15-402;
- (xxvii) Using a minor to produce, import, prepare, distribute, process, or appear in obscene material, as defined in § 39-17-902(b);

(xxviii) Unlawful sale, distribution, or transportation with intent to sell or distribute a child-like sex doll, as defined in § 39-17-910(f);

(xxix) Sexual exploitation of a minor, as defined in § 39-17-1003;

(xxx) Facilitation, under § 39-11-403, to commit any of the offenses listed in this subdivision (a)(3)(B) or subdivisions (a)(3)(A)(ii)–(a)(3)(A)(xviii);

(xxxi) Criminal attempt, under § 39-12-101, to commit any of the offenses listed in this subdivision (a)(3)(B) or subdivisions (a)(3)(A)(ii)–(a)(3)(A)(xviii);

(xxxii) Solicitation, under § 39-12-102, to commit any of the offenses listed in this subdivision (a)(3)(B) or subdivisions (a)(3)(A)(ii)–(a)(3)(A)(xviii);

(xxxiii) Conspiracy, under § 39-12-103, to commit any of the offenses listed in this subdivision (a)(3)(B) or subdivisions (a)(3)(A)(ii)–(a)(3)(A)(xviii); and

(xxxiv) Robbery by use of a deadly weapon, as defined in § 39-2-501 [repealed];

(C) The following offenses, each of which results in the offender receiving one-half (1/2) strike:

(i) Aggravated assault, as defined in § 39-13-102(a)(1)(A)(iii) or § 39-13-102(a)(1)(B)(iii), if the offense involved the use of a deadly weapon;

(ii) Aggravated assault, as defined in § 39-13-102(a)(1)(A)(iv);

(iii) Aggravated assault, as defined in § 39-13-102, if the offense resulted in serious bodily injury to or the death of another;

(iv) Aggravated assault against a first responder or nurse, as defined in § 39-13-116(b)(3), if the offense involved the use of a deadly weapon;

(v) Aggravated assault against a first responder or nurse, as defined in § 39-13-116(b)(1), (b)(2), or (b)(4);

(vi) Voluntary manslaughter, as defined in § 39-13-211;

(vii) Criminally negligent homicide, as defined in § 39-13-212;

(viii) Vehicular homicide, as defined in § 39-13-213(a)(1), (a)(3), or (a)(4);

(ix) Reckless homicide, as defined in § 39-13-215;

(x) Involuntary labor servitude, as defined in § 39-13-307;

(xi) Trafficking persons for forced labor or services, as defined in § 39-13-308;

(xii) Aggravated burglary, as defined in § 39-13-1003;

(xiii) The manufacture, delivery, or sale of a controlled substance, as defined in § 39-17-417, where the instant offense is classified as a Class A, B, or C felony and the person has two (2) or more prior convictions for the manufacture, delivery, or sale of a controlled substance classified as a Class A, B, or C felony, pursuant to § 39-17-417, prior to or at the time of committing the instant offense;

(xiv) Possessing or using a firearm or antique firearm during commission of or attempt to commit a dangerous felony, as defined in § 39-17-1324; and

(xv) Driving under the influence with six (6) prior convictions, as defined in § 55-10-401; and

(D) The following offenses, each of which results in the offender receiving one-quarter (1/4) strike:

(i) Unlawful possession of a firearm by a person convicted of a felony crime of violence, an attempt to commit a felony crime of violence, or a felony involving use of a deadly weapon, as defined in § 39-17-1307(b)(1)(A);

(ii) Unlawful possession of a firearm by a person convicted of a felony drug offense, as defined in § 39-17-1307(b)(1)(B);

(iii) Unlawful possession of a handgun by a person convicted of a felony, as defined in § 39-17-1307(c); and

(iv) Unlawfully providing a handgun to a juvenile or permitting a juvenile to possess a handgun, as defined in § 39-17-1320.

(b) The court shall sentence a defendant who has been convicted of a violent offense that occurred on or after July 1, 2023, and that, in combination with prior convictions for violent offenses, results in the defendant having three (3) or more strikes to imprisonment for life without possibility of parole if the court finds beyond a reasonable doubt that the defendant is a repeat violent offender.

(c) The finding that a defendant is or is not a repeat violent offender is appealable by either party.

SECTION 3. This act takes effect July 1, 2023, the public welfare requiring it, and applies to sentencing for offenses occurring on or after that date, regardless of whether the offender's prior convictions for violent offenses occurred prior to, on, or after that date.

House Criminal Justice Subcommittee Am. # 1

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1398

House Bill No. 1242*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 39-17-408, is amended by adding the following as a new subsection:

() Xylazine and any salt, sulfate, isomer, homologue, analog, or other preparation of xylazine, and any salt, sulfate, isomer, compound, derivative, precursor, homologue, analog, or other preparation thereof that is substantially chemically equivalent or identical with xylazine.

SECTION 2. This act takes effect July 1, 2023, the public welfare requiring it.



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Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 756*

House Bill No. 1248

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 45-2-1204(b), is amended by adding the following as a new subdivision:

(4) The Tennessee bureau of investigation's elder financial reporting system pursuant to Section 4.

SECTION 2. Tennessee Code Annotated, Section 45-2-1204(c), is amended by designating the current language as subdivision (c)(1) and adding the following subdivision (c)(2):

(2) Notwithstanding subdivision (c)(1), the financial service provider shall provide information to aid in the investigation of suspected elder financial exploitation pursuant to Section 3.

SECTION 3. Tennessee Code Annotated, Section 45-10-103, is amended by adding the following as a new subdivision:

() The furnishing by a financial institution of access to, or copies of, records that are relevant to suspected, actual, or attempted financial exploitation, as defined in § 45-2-1202, to the Tennessee bureau of investigation or an elder abuse investigator, as described in Section 5, if a report is made pursuant to § 45-2-1204. The records provided pursuant to this subdivision () must be limited to records relating to the most recent transaction or transactions that may comprise financial exploitation not to exceed thirty (30) calendar days prior to the first suspected financial exploitation transaction or thirty (30) calendar days after the last suspected financial exploitation transaction.



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SECTION 4. Tennessee Code Annotated, Title 38, Chapter 6, Part 1, is amended by adding the following as a new section:

(a) By no later than October 1, 2023, the Tennessee bureau of investigation shall create an elder financial exploitation reporting system that accepts reports from financial institutions as described in § 45-2-1204(b).

(b) Upon receiving a report of suspected elder financial exploitation, the bureau shall coordinate with the district attorney general in the appropriate judicial district and, when appropriate, with other law enforcement agencies and adult protective services for additional investigation of the reported exploitation. The bureau may share appropriate information with the district attorney general, other law enforcement agencies, and adult protective services to aid in the investigation of the reported exploitation.

SECTION 5. Tennessee Code Annotated, Title 8, Chapter 7, Part 1, is amended by adding the following as a new section:

(a) There is created an elder abuse investigator position within the district attorney general's office of each judicial district. An elder abuse investigator shall be employed and compensated as provided for a criminal investigator pursuant to part 2 of this chapter.

(b) An elder abuse investigator may investigate:

(1) Suspected cases of physical abuse, neglect, or financial exploitation of individuals sixty-five (65) years of age or older or of otherwise vulnerable adults;

(2) Reports of financial exploitation made to the Tennessee bureau of investigation's elder financial exploitation reporting system; and

(3) Other crimes as requested by the district attorney general.

SECTION 6. Sections 1 through 3 of this act take effect October 1, 2023, the public welfare requiring it. Section 4 of this act takes effect upon becoming a law, the public welfare

requiring it. All remaining sections of this act take effect July 1, 2023, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 213

House Bill No. 248*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 39-13-111, is amended by adding the following new subsection:

(f) A person convicted of a violation of this section involving strangulation or attempted strangulation shall be punished by a mandatory minimum sentence of thirty (30) days incarceration, which includes participation in programming that is evidence-based for domestic violence.

SECTION 2. Tennessee Code Annotated, Section 39-13-102, is amended by adding the following new subsection:

(f) A violation of subdivision (a)(1)(A)(iv), in which the victim of the offense loses consciousness due to strangulation, may be prosecuted as attempted second degree murder, under § 39-13-210.

SECTION 3. Tennessee Code Annotated, Section 39-13-102, is amended by deleting subdivision (e)(1)(A)(ii) and substituting instead:

(ii)

(a) Except as provided in subdivision (e)(1)(A)(ii)(b), subdivision

(a)(1)(A)(i), (iii), or (iv) is a Class C felony; and

(b) If the victim is pregnant at the time of the offense, subdivision

(a)(1)(A)(iv) is a Class B felony;

SECTION 4. Tennessee Code Annotated, Section 40-11-115, is amended by adding the following new subsection:



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(d) A defendant charged with a violation of § 39-13-102 or § 39-13-116 that involves strangulation of the victim shall not be released on the defendant's personal recognizance or upon execution of an unsecured bond. The magistrate must require the defendant to post bail to reasonably ensure the appearance of the person as required and the safety of the community, in addition to any other conditions of release imposed.

SECTION 5. This act takes effect July 1, 2023, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1500

House Bill No. 1002*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 40-30-114, is amended by adding the following as a new subsection:

(c)

(1) In cases where a defendant has been sentenced to death and is seeking collateral review of a conviction or sentence, the attorney general and reporter has exclusive control over the state's defense of the request for collateral review and has all of the authority and discretion that the district attorney general would have in non-capital cases as well as any additional authority provided by law. The attorney general and reporter is not bound by any stipulations, concessions, or other agreements made by the district attorney general related to a request for collateral review.

(2) The trial court lacks jurisdiction to enter a final order granting relief on a request for collateral review outlined in subdivision (c)(1) until the attorney general and reporter files a response to the request.

(3) It is the duty and function of the district attorney general, and the district attorney general's staff, to lend whatever assistance may be necessary to the attorney general and reporter in the trial and disposition of requests for collateral review outlined in subdivision (c)(1), including, but not limited to, providing the attorney general and reporter with the district attorney general's case file and any other case-related material.



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(4) As used in this subsection (c), "collateral review" means any proceeding under this chapter, including a petition requesting analysis of evidence, a proceeding under § 39-13-203(g), a proceeding under § 40-26-105, a proceeding involving a challenge to a capital inmate's competency to be executed, and any other judicial reexamination of a judgment or claim in a proceeding outside of the direct review process.

SECTION 2. Tennessee Code Annotated, Section 40-30-114, is amended by deleting subsection (a) and substituting:

(a) The district attorney general or the attorney general and reporter must be reimbursed for any expenses, including travel, incurred in connection with the preparation and trial of any proceeding under this part. This expense must be paid by the state and is not included in the expense allowance now received by the various district attorneys general or the attorney general and reporter.

SECTION 3. Tennessee Code Annotated, Section 40-30-108, is amended by deleting subsection (a) and substituting:

(a) The district attorney general shall represent the state except as provided in § 40-30-114(c). The state shall file an answer or other responsive pleading within thirty (30) days, unless extended for good cause. Good cause will not be met by a routine statement that the press of other business prevents a response within the thirty-day period. Failure by the state to timely respond does not entitle the petitioner to relief under the Post-Conviction Procedure Act.

SECTION 4. Tennessee Code Annotated, Section 39-13-203, is amended by deleting subdivision (g)(1) and substituting:

(g)

(1) A defendant who has been sentenced to the death penalty prior to the effective date of this act and whose conviction is final on direct review may petition the trial court for a determination of whether the defendant is intellectually

disabled. The motion must set forth a colorable claim that the defendant is ineligible for the death penalty due to intellectual disability. A defendant filing a motion under this subsection shall serve the attorney general and reporter, who will represent the state. Either party may appeal the trial court's decision in accordance with Rule 3 of the Tennessee Rules of Appellate Procedure.

SECTION 5. Tennessee Code Annotated, Section 40-26-105, is amended by deleting subsection (a) and substituting:

(a) There is made available to convicted defendants in criminal cases a proceeding in the nature of a writ of error coram nobis, to be governed by the same rules and procedures applicable to the writ of error coram nobis in civil cases, except insofar as inconsistent herewith. Notice of the suing out of the writ shall be served on the district attorney general except in cases where a defendant has been sentenced to death, where notice shall be served on the attorney general and reporter. A judge does not have authority to order the writ to operate as a supersedeas. The court has authority to order the person having custody of the petitioner to produce the petitioner in court for the hearing of the proceeding.

SECTION 6. This act takes effect upon becoming a law, the public welfare requiring it, and applies to all currently pending, reopened, and future requests for collateral review.